

w/o M

ORIGINAL

UNITED STATES DISTRICT COURT
NORTHER DISTRICT OF TEXAS
DALLAS DIVISION

UNITED STATES OF AMERICA
and STATE OF TEXAS
ex rel. JEFFREY SEARS

Plaintiffs,

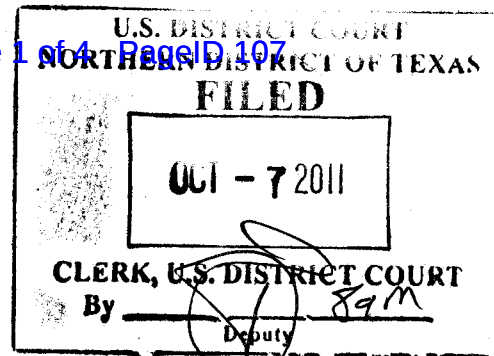
v.

ST. JUDE MEDICAL, INC.,
MEDCATH OF LITTLE ROCK, LLC
d/b/a ARKANSAS HEART
HOSPITAL; and BAYLOR HEALTH
CARE SYSTEM;

Defendants.

Case No. 3-10CV1237-M

**FILED IN CAMERA AND
UNDER SEAL PURSUANT TO
31 U.S.C. §3730(b)(2)**



SEALED

THE STATE OF TEXAS' NOTICE OF DECLINATION

1. Pursuant to the Texas Medicaid Fraud Prevention Act, chapter 36 of the Texas Human Resources Code ("TMFPA"), Texas notifies the Court of its decision not to intervene in this action.

2. Although Texas declines to intervene, we respectfully refer the Court to the provisions of the TMFPA. Specifically, TMFPA section 36.104, as amended, provides that "[i]f the state declines to take over the action, the person bringing the action may proceed without the state's participation"; and section 36.102 provides that the "action under this subchapter may be dismissed . . . only if the court and the attorney general consent in writing to the dismissal and state their reasons for consenting." Texas requests that, should either the relator or defendants propose that this action be dismissed, settled, or otherwise discontinued, this Court solicit the written consent of Texas before ruling or granting its approval of such a request.

3. Texas further requests that pursuant to TMFPA section 36.104, should this case continue, that relator and defendants serve all pleadings filed in this action upon Texas, and that all orders issued by the Court also be sent to the undersigned government's counsel.

4. Texas reserves its right to order any deposition transcripts and to intervene in this action, for good cause shown, at a later date pursuant to TMFPA section 36.104.

5. Texas requests that the complaint, this notice, and the Court's accompanying Order remain sealed and that they not be served upon defendants. Texas asks that all other materials in the court's file (including, but not limited to, any hearing transcripts, applications filed by Texas for an extension of time in which to intervene or for any other reason) remain under seal and not be made public or served on defendants because, in discussing the content and extent of Texas' investigation, such papers are provided by law to the Court alone for the sole purpose of evaluating whether the seal and time for making an election to intervene should be extended.

6. This Notice of Declination is without prejudice to Texas' rights under TMFPA, and Texas expressly reserves the right to bring claims against these defendants under TMFPA at a later date.

7. A proposed order accompanies this notice.

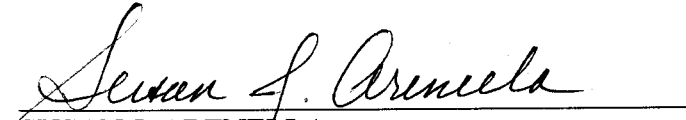
Respectfully submitted,

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RAYMOND C. WINTER
Chief, Civil Medicaid Fraud Division

A handwritten signature in cursive script, reading "Susan J. Arenella", is written over a horizontal line.

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ATTORNEYS FOR THE STATE OF TEXAS

CERTIFICATE OF SERVICE


I hereby certify that a copy of the foregoing State of Texas' Notice of Declination and proposed Order were mailed by first class mail on this 3rd day of October, 2011, to:

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